**Proposed amendment to the Listings Requirements regarding Company secretaries and improving corporate governance**

Background

In 17 October 2011 we invited comments on proposed changes to the Listings Requirements regarding a prohibition on the company secretary being a director of the company, in any capacity. During the public consultation process concerns were raised such that we believe that some of the practical problems that the proposal will introduce will out way the desired benefits. We have therefore revised our approach on this matter, as well as introduced some other changes which aim to boost corporate governance. These proposals are set out below.

Section 3-Continuing Obligations

Paragraph 3.84 deals with corporate governance. New paragraphs 3.84(j) and (k) will be inserted as follows:

3.84 (j) the board of directors must consider and satisfy itself, on an annual basis, on the competence, qualifications and experience of the company secretary. The issuer must confirm this by reporting to shareholders in its annual report that the board of directors has executed this responsibility; and

3.84(k) the recommended practice of the King Report on Governance for South Africa highlights, inter alia, that the company secretary should maintain an arms-length relationship with the board of directors and that the company secretary should ideally not be a director. The board of directors must specifically consider these two points and provide motivation in its communication to shareholders in the annual report as to why it believes that there is an arms-length relationship between itself and the company secretary. If the company secretary is a director of the company or if the board of directors otherwise concludes that there is not an arms-length relationship between itself and the company secretary, the board of directors must motivate how the issuer is still able to ensure that the company secretary effectively performs their role as the gatekeeper of good governance in the issuer.

Section 16 –Documents to be submitted to the JSE

In paragraph 16.1, which deals with general matters, a new paragraph 16.1 (e) will be inserted as follows:

16.1 (e) several of the schedules referred to in this section 16 require the signature of both the company secretary and a director. In the instance where the company secretary is also a director the JSE will not accept that schedule if signed by the same person in both capacities. Therefore a director, other than the company secretary must always sign the letter.

Paragraph 16.10 deals with documents to be submitted by new applicants. A new paragraph 16.10(u) will be inserted as follows:

16.10(u) a letter signed the chairman of the board of directors and by the chairman of the audit committee stating that:

* 1. the financial information contained within the JSE circular has been considered by the audit committee ,and as part of that consideration it has inter alia:
     1. specifically considered the accounting policies applied in the JSE circular and believes that they are appropriate;
     2. evaluated the significant judgements and reporting decisions made by management affecting the information and believes that that they are appropriate;
     3. evaluated the clarity and completeness of the financial disclosures and believes that the disclosure is appropriate;
     4. obtained explanations from management on the accounting for significant or unusual transactions and considered the views of the external auditors in these instances;
     5. understands how materiality has been evaluated for reporting purposes and believes that the materiality levels are appropriate;
     6. considered the effectiveness of internal financial controls and is satisfied with such controls;
  2. the audit committee has recommended that the financial information be approved by the board of directors;
  3. the board of directors has approved the financial information including the specific matters set out in paragraph 16.10(u)(i) above,
  4. the board of directors to the best of their knowledge believes that the accounting policies disclosed in the circular will be applied in the next reporting period; and
  5. the board of directors considers the internal controls of the issuer to be effective.